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Honeywell's Docket No. H0002233 US -4015
Practitioner's Docket No. 7240022001-3224000

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fery, et al.
Application Serial No. U.S. National Phase Application related to PCT/US02/05536 and to Current
Application Serial No. 10/765782
Filed: June 11, 2003
For: Internal Heat Spreader Plating Methods and Devices

Mail Stop Petition
Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.10(e)

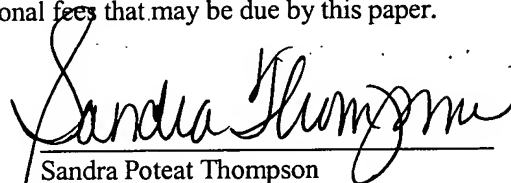
This petition is being filed in Response to the Decision on Petition dated May 26, 2004.

Please deliver to Paul Shanoski, c/o Office of Petitions in a prominent manner.

Enclosed is a copy of the Change of Address we filed for this application on June 1, 2004.
Please update your records.

Please charge Account No. 502518 for any additional fees that may be due by this paper.

Date: June 2, 2004


Sandra Poteat Thompson
Reg. No. 46264
BINGHAM McCUTCHEN

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. SECTION 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

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deposited with the United States Postal Service
with sufficient postage as first class mail in an
envelope addressed to the Mail Stop Petition, PO
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Date: June 2, 2004

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transmitted by facsimile to the Patent and
Trademark Office at (703) ____ - ____


Kristin J. Azeona



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231**

Inventor: **Fery et al.**

Serial No: **US National Phase**

Application related to PCT/US02/05536

and to Current Application 10/765782

Filed: **June 11, 2003**

For: **Internal Heat Spreader
Plating Methods and Devices**

Examiner: **Not Assigned Yet**

Art Unit: **Not Assigned Yet**

PETITION UNDER 37 CFR § 1.183: SUSPENSION OF RULES

I, the undersigned, Sandra Poteat Thompson, hereby respectfully petition the USPTO as follows:

1. I am the attorney of record for Honeywell International Inc. and am an associate with the firm of Bingham McCutchen LLP.
2. On June 11, 2003, I reviewed and signed the documents for a United States National Phase Application claiming priority to PCT/US02/05536 to be filed by Express Mail – Post Office to Addressee – Number EV406604014US. This Express Mail number was properly placed on the application correspondence sent to the USPTO. The Express Mail label was properly prepared, dated and had the Riordan & McKinzie Express Mail Account Number clearly marked on the label. I asked Ms. Azcona to file the National Phase Application that day. (A true and correct copy of paperwork filed with copy of Express Mail label was filed with the 1.10(e) petition filed on March 15, 2004, and was noted by the Petitions Officer in the Decision on Petition under 37 CFR 1.10(e) mailed on May 26, 2004)
3. Our office received the Customer Copy of the Express Mail – Post Office to Addressee – Number EV406604014US label by mail with the “Date In” showing June 11, 2003 and the USPS mail stamp showing the date of deposit as June 11, 2003. (A true and correct copy of paperwork filed with copy of Express Mail label showing the “Date In” was filed with the 1.10(e) petition filed on March 15, 2004, and was noted by the Petitions Officer in the Decision on Petition under 37 CFR 1.10(e) mailed on May 26, 2004).
4. I followed up with the USPTO Status Line on September 25, 2003 in order to check on the status of the US Postcard and Filing Receipt, since there were several matters we had not received Postcards and Filing Receipts for that had been filed in June and July of 2003. I learned that the application had not been received yet by the USPTO.

5. The paralegal responsible for this matter, Ms. Kristin Azcona, was out on maternity leave on September 25, 2003, so I was unable to file a petition under 37 CFR 1.10, since a petition under 37 CFR 1.10 (discussed in detail in MPEP Section 513) requires that a statement, signed by the person who deposited the documents as "Express Mail" with the USPS be included with the petition setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received. See MPEP Section 513, letter (D) under the heading: "PETITION FOR CORRESPONDENCE NEVER RECEIVED".
6. I checked with the USPS and learned that the Express Mail number had not entered their system.
7. I conducted a complete file audit of our client files to determine if we had received the documents mailed on June 11, 2003 back in our office, and we had not.
8. I also reviewed those documents filed on or about the same time, including another application filed on June 26, 2003 as Express Mail – Post Office to Addressee - number EV332879354 – where the postcard was not received until September 23, 2003 by our San Francisco Office (original application mailed on June 25, 2003).
9. Ms. Azcona did not return from maternity leave until the end of 2003, as stated in her declaration included with the originally filed 1.10(e) petition.
10. On information and belief, when Ms. Azcona returned from her maternity leave, she reviewed her hours and the file for the matter and did confirm that she had deposited the Express Mail package in the firm's Drop Box on June 11, 2003 and filled out the proper sections on the Express Mail Log. She further confirmed her deposit of Express Mail – Post Office to Addressee – Number EV406604014US by reviewing the Express Mail Log.
11. Once I had fully determined that Express Mail – Post Office to Addressee – Number EV406604014US was never received by the USPTO and was not received back in our offices, I **promptly** began working on this petition under 37 CFR 1.10 to the USPTO, requiring a declaration from Ms. Kristin Azcona as the person who deposited the documents "Express Mail" with the USPS (MPEP Section 513).

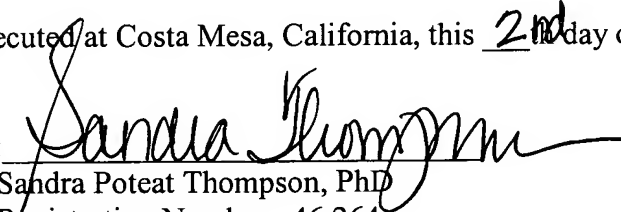
12. I respectfully request that the Office suspend, under its powers given by 37 CFR 1.183, only that part of the requirements for a 1.10(e) petition that states that the petition be filed promptly after the person becomes aware that the Office has no receipt of the correspondence in this case for the following reasons:
 - a) A 1.10(e) petition has the following four requirements: 1) that a petition be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence; 2) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; 3) include a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS; and 4) include a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received. (See discussion in MPEP Section 513) (emphasis added)
 - b) After September 25, 2003, I could not meet the requirements for filing a Petition under 1.10(e), because I did not have a statement signed by the person who deposited the documents, as shown under points 5, 9 and 10 above;
 - c) According to my understanding of the rule for a 1.10(e) petition, a petition could not properly be filed unless the applicant met all four of the requirements shown in point (a) above in concert;
 - d) When Ms. Azcona returned from maternity leave, I promptly began working on collecting all of the evidence necessary for a 1.10(e) petition, including the statement signed by Ms. Azcona; and
 - e) I filed the 1.10(e) petition as quickly as possible once Ms. Azcona returned from maternity leave.

13. On June 1, 2004, after receiving a decision on the 1.10(e) petition described herein, I learned from Paul Shanowski, Senior Attorney with the Office of Petitions at the United States Patent and Trademark Office that had I filed the 1.10(e) petition in October, 2003 without the statement from Ms. Azcona that the petition would have likely been dismissed for failing to meet all of the requirements, since I did not have a declaration from the person who deposited the application with Express Mail, and if I waited until Ms. Azcona returned from maternity leave (which I did) that it would be dismissed for failing to act promptly (which it was).
14. Therefore, in the interest of justice, the Applicant respectfully requests that the requirement of promptly filing a 1.10(e) petition after the person becomes aware that the Office has no evidence of receipt of the correspondence be waived in this extraordinary situation and that the June 11, 2003 filing date be awarded for this application, since it is clear from the Decision on Petition Under 37 CFR 1.10(e) mailed on May 26, 2004 that the "Date In" Date was June 11, 2003 and since it is also clear that the only remaining issue in this matter is the "promptly" requirement under 37 CFR 1.10(e), especially given the fact that the other three requirements listed herein were clearly met, in that a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing was provided in the 1.10(e) petition filed on March 15, 2004; a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS was provided in the 1.10(e) petition filed on March 15, 2004; and a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received was provided in the 1.10(e) petition filed on March 15, 2004.

15. I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, Section 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed at Costa Mesa, California, this 2nd day of June, 04.

By:


Sandra Poteat Thompson, PhD
Registration Number: 46,264

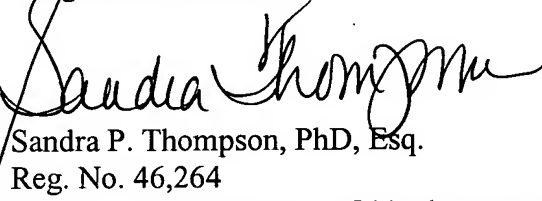
Dated:

6/2/2004

Respectfully submitted,

Bingham McCutchen, LLP

By:


Sandra P. Thompson, PhD, Esq.
Reg. No. 46,264
E-mail: sandra.thompson@bingham.com
Direct Line: 714-830-0622

ATTORNEYS FOR APPLICANT(S):

Plaza Tower
600 Anton Boulevard, 18th Floor
Costa Mesa, CA 92626
Tel: 714-830-0622
Fax: 714-830-0722



Please acknowledge receipt of the following by affixing hereon the Official date stamp and returning this card to our office.

Title:
Inventor:
Filing Date:
Serial Number:

Renewed Petition Under 37 CFR 1.10(e)
Internal Heat Spreader Plating Methods and Devices
Honeywell - Silinger, et al.
January 26, 2004
10/765782

Date of Deposit:
Matter #:
Enclosures:

June 21, 2004
7240022001-3224000
(1) Transmittal (1 page); (2) Petition (5 pages); (3) Copy of
Change of Address (1 page); and (4) postcard.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450

COPY

In re application of: Paul Silinger, et al.

Serial No: 10/765782

Filed: January 26, 2004

For: Internal Heat Spreader Plating
Methods and Devices

CHANGE OF ADDRESS

Dear Sir:

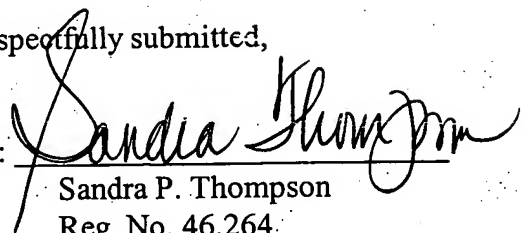
Please record the mailing address of the attorney handling this matter as follows:

Sandra P. Thompson
Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA 94111
Tel: 714-830-0600
Fax: 714-830-0700

Respectfully submitted,

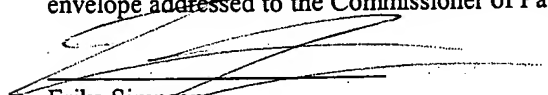
Dated: June 1, 2004

By:


Sandra P. Thompson
Reg. No. 46,264
Attorneys for Applicant(s)

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail with sufficient postage, in an envelope addressed to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria VA 22313-1450.


Erika Simpson

Dated: June 1, 2004